IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Revision No.4242 of 2007
Date of Decision:21.09.2007

Jarnail Singh and another

.....Petitioners

Vs.

Bhajan Singh and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. P.K.Gupta, Advocate for the petitioners.

Mr. K.S.Grewal, Advocate for the respondents.

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Rajesh Bindal, J.

The petitioners have challenged before this Court order dated 23.7.2007 passed by Civil Judge (Jr. Division), Ludhiana whereby application of the petitioners- defendants for amendment of the written statement was dismissed. The amendment, which is sought to be made in the written statement, is regarding the existence of a Will in favour of the petitioners- defendants executed by Gurdev Singh on 29.10.1987 which is a registered document. It is not in dispute that the same very Will was in question in litigation between the parties before the revenue authorities.

Learned counsel for the respondents submits that he is not disputing the existence of the earlier Will dated 29.10.1987 as the respondents had themselves produced subsequent Will dated 20.12.1993 on record claiming the relief on the basis thereof which itself mentions about the revocation of the earlier Will dated 29.10.1987.

In view of the above, stand of the parties, where the existence of the earlier Will is not denied by the respondents, the petitioners/ defendants are permitted to add following para as preliminary objection No.6 in the written statement already filed by the petitioners- defendants:-

> "That deceased Gurdev Singh was being served by the defendants and others and in lieu of the services rendered by Major Singh, Harbhajan Singh and others in his sound and disposing state of mind by his own sweat-will, he executed his

last and valid registered Will on 29.10.87 in favour of Major Singh, Balwinder Singh sons of Jagtar Singh to the extent of ½ share and Jaswinder Singh, Jasbir Singh, Gurmeet Singh sons of Bhajan Singh in equal share i.e. last and valid Will executed by Gurdev Singh."

As the respondents- plaintiffs have fairly admitted existence of earlier Will dated 29.10.1987, there would not be any need to lead evidence to prove the same. The same shall be exhibited as such. The pleadings are accordingly complete. The trial of the suit will continue as such from the stage it is existing today.

Revision Petition is disposed of in the manner indicated above.

Copy of the order be given dasti on payment of usual charges.

September 21, 2007 **(RAJESH BINDAL)**
renu **JUDGE**